

**MINUTES  
TOWN OF INDIAN RIVER SHORES  
REGULAR TOWN COUNCIL MEETING  
Thursday, March 31, 2005**

PRESENT: Thomas W. Cadden, Mayor  
David J. Becker, Vice Mayor  
William H. Ahrens  
Frances F. Atchison  
E. William Kenyon

STAFF PRESENT: Chester Clem, Town Attorney  
Robert J. Bradshaw, Town Manager  
Barbara Readdy, Town Clerk  
Hugh Cox, Director of Public Safety

Also Present: Gerard Weick, Chairman, PZV Board  
Lester Solin, Solin and Associates, Town Planner  
Joe Baird, County Administrator, Indian River County  
Bob Keating, Community Development Director, Indian River County

The regular Town Council meeting was called to order by Mayor Cadden on March 31, 2005 at 3:30 p.m.

Pledge of Allegiance  
Invocation - Councilman Kenyon  
Roll Call

Consent Agenda:

- a. Approval of Regular Town Council Meeting Minutes of February 24, 2005
- b. Approval of Special Town Council Meeting minutes of March 9, 2005
- c. Accepting and Filing of the Pension Board Meeting minutes of February 22, 2005
- d. Accepting and Filing of Planning, Zoning and Variance Board Minutes of March 14, 2005

A **MOTION** by Mr. Kenyon, supported by Mrs. Atchison, to accept the Consent Agenda as presented. Motion carried with unanimous voice vote.

The Agenda order was revised to allow discussion on impact fees. by Mr. Bob Keating. Currently there is one impact fee implemented in the County and that is the transportation (traffic) impact fee - in existence since 1986. A year ago County Commissioners directed staff to initiate the process to put in place an additional eight impact fees. Five of

the eight will apply to the Town of Indian River Shores. Along with the eight additional impact fees the new County Commission gave staff direction to triple the transportation impact fee following a report given by their consultant, Tindall-Oliver.

Mr. Keating added that there is a significant methodology report addressing each of these eight impact fees which identifies in detail the methodology used to derive the fees. The methodology has been developed by Tindall-Oliver, a consulting company that has done well over 100 impact fee studies in the State of Florida, and they have not been successfully challenged on any one of them.

The County has developed interlocal agreements which will be executed by each of the municipalities in the County and the School Board, thereby officially signifying their participation in the process. A rate schedule has also been developed that identifies the amount of the impact fees for each particular use in each of the categories. An ordinance has almost been completed that the Board of County Commissioners will adopt which will implement these fees. Finally, staff is working on a computer program which will be given to each municipality to facilitate the collection of the fees; i.e., make it easier to input data, generate the necessary reports and facilitate the wire transfer of monies to the County.

Mr. Keating discussed the basic reason impact fees are used by government; that is, to make sure that growth pays for itself. He explained the difference between a fee and a tax, in the sense that a tax does not relate to the services that one derives from paying the tax. For example, there's not necessarily a relationship between the tax a citizen pays and the benefits received. Fees are different - the case law on impact fees requires that the amount of fee that a fee payer pays be in direct proportion to the benefit the fee payer receives from that fee.

Mr. Keating explained the methodology used in determining the amount of the impact fees, and the thorough research that is done to make sure they are legally defensible.

Mr. Keating added that an administrative fee has been instituted to cover the cost that the municipalities and the County will incur in implementing and administering the fees. The administrative fee will be 3%, of which 2% will go to the municipalities and 1% to the County. In the unincorporated County, the entire 3% will go to the County to offset the administrative cost to implement the fees.

In concluding, Mr. Keating explained this has been a long process and the County is now in a position where growth will pay its share of the cost of additional capacity producing capital facilities that must be constructed to accommodate that growth. By doing so, hopefully it will reduce ad valorem property tax increases that would otherwise occur in the future to realize the revenue for those facilities.

The next step would include the signing of the Interlocal Agreement by the Town at a

subsequent meeting. The County will be taking the ordinance through the adoption process which requires moving through several County committees and the Board of County Commissioners. It is anticipated that the ordinance will be formally adopted at the end of May, and the County will have received the executed Interlocal Agreements from all the municipalities and the School Board.

Councilman Kenyon questioned whether any of the impact fees, other than the 2% administrative fees, generated in the Town will be spent in the Town. Mr. Keating responded in most of the cases they will not. Some of the new fees include correctional facility fees and solid waste fees, and the Town does not have a correctional facility or a solid waste facility. The fees to be collected from our Town along with the correctional facility impact fees and solid waste impact fees include the transportation impact fees, public buildings impact fees, library impact fees and school impact fees. There are three additional impact fees that apply to the unincorporated area but do not apply to the Town.

In response to a question on the total of impact fees to a resident of the Town, Mr. Keating reported the increase to the Town would be around \$3,000 to \$5,000 for a single family house. Mr. Keating reported that the School Board has agreed to participate in the process.

The Board of County Commissioners has expressed a concern that they would like new development to be paying what they perceive as their fair share as soon as possible so this is what's driving implementing the adoption of the impact fees as soon as possible.

In response to a question by Mayor Cadden regarding who is grandfathered in and who will be incurring the impact fees, Mr. Keating stated that they will not go backwards on assigning impact fees; anyone who is in the works at this time is protected from the new impact fees until the fees are adopted. The effective date has not been specifically resolved as yet.

#### Mayor's Items:

Discussion - pension plan fees. The Pension Trustee Board met and requested that the Town Council approve paying the pension attorney fees retroactively for fees already incurred, and also to pay the pension attorney fees for the remainder of the year 2005. Following brief discussion, a **MOTION** by Mr. Kenyon, supported by Mrs. Atchison, to approve the payment of the pension attorney fees through the end of 2005. Motion carried with unanimous voice vote.

#### Town Attorney's Items:

- a. First reading - Annexation Ordinance

Attorney Clem requested that Lester Solin, Town Planner, initiate discussion on the annexation issue.

Mr. Solin began by giving the new Council member a brief background on the services he has rendered to the Town over the past twenty years.

Mr. Solin explained he is coordinating the Town's annexation process for a parcel of approximately 28 acres located south of Indian Trail, 700 feet west of A1A, and running westward to Jungle Trail, with the exception of a little sliver of property owned by the County on the east side of the southwest portion of Jungle Trail, which is the western boundary of this property.

Mr. Solin provided for the Council a report which is his analysis of the annexation. The owner is Vero Beach Estates, Inc., a Delaware corporation with a Minneapolis address. The proposed annexation is consistent with the State guidelines for annexation; it satisfies the criteria for compactness, for contiguity with the Town's city limits, and it does not foster sprawl. There is a plan for providing urban services financed by the developer, including water, sewer, solid waste, roadways and drainage consistent with the Town's standards and the National Pollution Elimination process. The Town will provide emergency and fire service, and the developer and the residents will compensate the Town for those services just as all the other residents of the Town.

Mr. Solin discussed density and zoning issues and explained he did not want to go into an evaluation of the Planned Residential Development (PRD) because the developer has not presented that plan to the Town as yet. However, when the applicant petitioned for annexation, he did have an idea of what comp plan designation they wanted, and had an idea of how they wanted to zone the land. They want the PRD because the property has an irregular shape - more narrow in some portions than others, there are wetlands to the west of the property, and there is the need for a retention pond.

In addition to the ordinance, Mr. Solin explained that since the applicant wanted to annex in with a PRD, he believed it would be necessary to execute an annexation agreement also. In that agreement he has recommended that after the developer submits his Planned Residential Development, there are several issues the Town Council should take into consideration. The developer and the Council would duly execute the agreement ensuring that if the PRD comes in it will comply with the drainage requirements of the National Pollution Elimination System. Mr. Solin has prepared an ordinance that would implement that Federal program in coordination with the Town's Engineer, Bill Musser. Mr. Solin stated that the density will be no greater than R1A density. There shall be 50% landscaped green area and the Town's ordinance allows for 25% of the water body to be included as green space in a PRD. In a conventional residential development, the developer would be allowed to claim credit for up to 30%.

Mr. Solin always requires that a preliminary plat be submitted so that the lots that are made out of the unit of land are duly recorded. In the preliminary plat process all easements and rights-of-way would be duly engineered, and then the final plat would comply with State plat requirements. This is not too clear in our code and that is another reason Mr. Solin is advocating the execution of an annexation agreement. Mr. Solin has talked with the developer about all the required provisions and he has not finalized the layout of the plan; however, the Town should be receiving it by April 3.

Mr. Solin added that the annexation ordinance does not require Planning, Zoning and Variance Board consideration. Every document Mr. Solin has provided clearly states that there will be no effective date for an amendment to the comp plan until the State approves the annexation and the zoning will not be effective until both the annexation agreement and the comp plan amendment are approved by the State and the Council. If the Town does not choose to approve the PRD, the development would come in under R1A zoning. Mr. Solin's understanding is that the developer does not want R1A zoning, but that is an issue that should be addressed at the public hearing.

The first hearing on the annexation ordinance will be on April 28. At that time there will be three public hearings; one on the comp plan amendment, one on the annexation and one on the zoning ordinance. The hearing on the annexation is the only one required by law. The hearings on the comp plan and the zoning ordinance will be the first of two hearings that are required on both the comp plan and the zoning ordinance. The second reading and second public hearing will be after approval is received from the State on both the annexation and a ruling that the comp plan low density complies with State law.

Mr. Ahrens advised Council that he had received drawings from the developer and proceeded to submit information he received from the developer along with his concerns, which included inadequate front and side setbacks, front load and undersized garages and two story cabanas larger than allowed.

Attorney Clem proceeded to explain to Council what they are voting on in Ordinance No. 476. This will begin the process of annexation. Mr. Clem explained that the language in the ordinance came directly from Florida Statute 177.044. Following lengthy discussion, Mr. Clem read Ordinance No. 476 by title only.

AN ORDINANCE OF THE TOWN OF INDIAN RIVER SHORES, FLORIDA  
ANNEXING APPROXIMATELY 28.61 ACRES OF CERTAIN REAL PROPERTY  
LOCATED SOUTH OF INDIAN TRAILS SUBDIVISION, NORTH OF PALM  
ISLAND PLANTATION AND APPROXIMATELY 700 FEET WEST OF SR A1A  
AND SURROUNDED TO THE NORTH, EAST, AND SOUTH BY LAND WITHIN  
THE INCORPORATED LIMITS OF THE TOWN OF INDIAN RIVER SHORES, AS  
MORE PARTICULARLY DESCRIBED HEREIN, AND REDEFINING THE

**BOUNDARY LINES OF THE TOWN TO INCLUDE SAID REAL PROPERTY; AND PROVIDING AN EFFECTIVE DATE.**

With this ordinance is attached a copy of the location and the legal description. This will be on file for anyone to review as the process proceeds.

A **MOTION** by Mr. Kenyon, supported by Mrs. Atchison, to approve Ordinance No. 476 on first reading. Motion carried with unanimous voice vote.

Mr. Weick expressed a concern that the developer is wanting a PRD; there are only 28 acres in this parcel and our Town requires 50 acres in order for it to be a PRD. This limits the PZV Board's negotiations if it is allowed to come in as a PRD. He would recommend it come in as R1A. Mayor Cadden assured Mr. Weick this would not limit the PZV Board because the developer is expected to meet the Town's requirements before annexation - there will be public hearings on this. Mr. Clem assured Mr. Weick that the Board will have a great deal of input in this - to negotiate this to be totally acceptable to the Planning Zoning and Variance Board and to the Council.

Town Manager's Items

A **MOTION** by Mr. Kenyon, supported by Dr. Becker, to adopt Resolution No. 05-08 accepting the 2005 Revised Indian River County Unified Local Mitigation Plan. Motion carried with unanimous voice vote.

A **MOTION** by Dr. Becker, supported by Mr. Kenyon, to accept the resignations John Cook from the Finance Committee and Robert Becton from the Code Enforcement Board. Motion carried with unanimous voice vote.

A **MOTION** by Dr. Becker, supported by Mr. Kenyon, to accept the reappointments of Gerard Weick, Jack Mitchell and Jackie Johnson to the Planning, Zoning and Variance Board; Barry Holm to the Code Enforcement Board; Joseph Duncan to the Finance Committee; and Thomas W. Cadden to the Pension Trustee Board, along with the appointment of Lawrence Pesin as a full member of the Finance Committee rather than an alternate member. Motion carried with unanimous voice vote.

Call to Council:

Committee Reports:

Council of Public Officials - Mr. Kenyon reported they did not meet.

Metropolitan Planning Organization - Dr. Becker reported they did not meet.

Beach and Shore Preservation Advisory Committee - Mr. Ahrens submitted a written report.

Parks and Recreation Advisory Committee - Mrs. Atchison reported they did not meet.

Board of Directors, Florida League of Cities: Mayor Cadden reported to Council on the Board meeting he attended on March 29 in Tallahassee and the Legislative Action Day on March 30 in Tallahassee. He encouraged the Council to write letters to Representative Kottkamp in the House of Representatives to get the proposed committee bill to the floor that would repeal the provision requiring governmental entities to release social security numbers to commercial enterprises. While in Tallahassee, Mayor Cadden met with Senator Pruitt and discussed Beach renourishment. As a member of the Board of Directors, Mayor Cadden was extremely impressed with the discussions and information he received on the League's trust funds and pension fund and in several other areas.

Mr. Ahrens asked to add to the record that a number of residents have come to him to compliment the Building Department, specifically Richard Jefferson, the Building Official. They spoke of how amenable he is to solving problems and how hard working he is.

Meeting adjourned at 4:45 p.m.

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Barbara A. Readdy, Town Clerk